

# *Virginia Regulatory Town Hall*

## Exempt Action Final Regulation Agency Background Document

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| <b>Agency Name:</b>         | State Air Pollution Control Board  |
| <b>Regulation Title:</b>    | Regulations for the Control and Abatement of Air Pollution                         |
| <b>Primary Action:</b>      | 9 VAC 5-40-5200  |
| <b>Secondary Action(s):</b> | None   |
| <b>Action Title:</b>        | Emission Standards for Petroleum Liquid Storage and Transfer Operations (Rev. E00) |
| <b>Date:</b>                | July 18, 2000  |

Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their regulations in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

This agency background document may be used for actions exempt pursuant to § 9-6.14:4.1C 1 through 4 at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1C 1 through 4 of the APA do not require filing with the Registrar at the proposed stage.

### Summary

*Please provide a brief summary of the regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment.*

The current regulation definition of "localities outside the volatile organic compound emissions control areas" includes the following localities: Charles City County, James City County, Roanoke County, Smith County, York County, Poquoson City, Roanoke City, Salem City and Williamsburg City. The amendment would delete Smyth County from the list.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency, including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

On July 11, 2000, the State Air Pollution Control Board adopted final amendments to regulations entitled "Regulations for the Control and Abatement of Air Pollution", specifically Emission Standards for Petroleum Liquid Storage and Transfer Operations (9 VAC 5 Chapter 40, Article 37). The regulation amendments are to be effective on October 1, 2000.

In adopting these amendments, the Board affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 9-6.14:4.1 C of the Administrative Process Act.

### Additional Information

*Please indicate that the text of the regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.*

*Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the regulation and that it comports with applicable state and/or federal law.*

*If the exemption claimed falls under § 9-6.14:4.1 C 4 (c) of the APA please include the federal law or regulations being relied upon for the final agency action.*

The text of the regulation is attached.

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Written assurance from the Office of the Attorney General that (i) the Board has statutory authority to promulgate the final regulation amendments and (ii) the amendments qualify as an exemption under § 9-6.14:4.1 C 4 (a) of the Administrative Process Act is available upon request.

The basis for the exemption is found in §10.1-1308 B of the Code of Virginia which requires the use of Stage I vapor recovery equipment "only in areas that have been designated at any time by the U.S. Environmental Protection Agency as nonattainment areas for the pollutant ozone."

The basis for the determination that Smyth County has never been a nonattainment area for ozone is found in the following documents:

- ! On February 18, 1975 (40 FR 7043), EPA promulgates the photochemical oxidants air quality standard (.08 ppm).
- ! On March 3, 1978 (43 FR 8962), EPA promulgates nonattainment areas for the photochemical oxidants standard. The areas are defined by Air Quality Control Regions (AQCRs) according to EPA policy. The entire state of Virginia is designated nonattainment for photochemical oxidants except for the Central Virginia AQCR.
- ! On September 12, 1978 (43 FR 40502), the nonattainment areas for photochemical oxidants are revised based on a new EPA policy that required nonattainment designations to be based on Metropolitan Statistical Areas (MSAs) instead of AQCRs. If no MSA is available, the county where the monitor is located becomes the nonattainment area. Major MSAs located in the Hampton Roads, Richmond, Roanoke and Northern Virginia areas are designated along with Stafford and Smyth counties.
- ! On February 8, 1979 (44 FR 8220), EPA promulgates a new ozone air quality standard (.12 ppm).
- ! On June 27, 1980 (45 FR 43412), EPA removes the nonattainment designation for Symth County. Air quality data demonstrates the area to be in compliance with the ozone standard.

### Family Impact Statement

*Please provide an analysis of the impact of the regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; 4) increase or decrease disposable family income.*

It is not anticipated that these regulation amendments will have a direct impact on families. However, there will be positive indirect impacts in that the regulation amendments will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in fertility disorders, fetal mutation and deformity, chronic and acute illness, premature death, and property damage.